IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 23081 of 1995

Between:

M/s Assn. Alcohols & Breweries Ltd.,
Silver Arc Place (4th Floor) 20/1, New Palasis, Indore, rep by M/s Shiva Marketing Ltd., Hyderbad through
their Sales Manager,

..... PETITIONER

AND

1 Commisioner of Proh. & Excise Govt. of A.P. Hyderabad.
2 Superintent of Prohibition & Excise Chittoor
3 M/s Sri Venkateswara Co-operative Sugar Factory Ltd., Tirupathi at Gajulamandyam
rep by Managing Director.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction or order preferably in the nature of writ of Mandamus declaring the action of the 3rd respondent in forfeiting Rs.15,00,000/- earnest money deposit made by the petitioner on 19-1-1995 with the 3rd respondent in the form of two demand drafts dated 17-1-1995 for Rs.9,00,000/- and Rs.6,00,000/- respectively drawn on Vysya Bank, Tirupathi in favour of the 3rd respondent for which a receipt has been issued by the 3rd respondent dated 19-1-1995 in pursuance of the letter addressed by the 3rd respondent dated 14-3-1995 and 16-6-1995 as being illegal

and void and being violative of Arts. 14, 31 and 300-A of the Constitution and also being inconsistent with Cl.6 of the agreement dated 25-1-1995 and forbid the respondents from proceeding in any manner in pursuance of the said letters of the 3rd respondent..

Counsel for the Petitioner:MR.A.T.M.RANGARAMANUJAM

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

WRIT PETITION NO : 2987 of 1995

Between:

Assn. Alcohols & Breweries Ltd., Silver Arc Place (4th Floor) 20/1, New Palasis Indore (Madhya Pradesh

..... PETITIONER

AND

1 The Commissioner of Sugar Govt. of A.P. Hyderabad.
2 The Commissioner of Excise, Govt of A.P. Hyderabad.
3 The West Godavari Cooperative Sugars Ltd., Bhimadole - 534425

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or Direction preferably in the nature of a Certiorari calling for the records relating to the proceedings issued by the third respondent in Rc.No4883/94-C dated 15-2-1995 as being violative of Article 14 of the Constitution and also being violative of Principles of Natural Justice offending Article 19(1)(g) and 300-A of the Constitution of India and also violative of Principles of natural justice and quash the same and forbid the respondent No.3 from proceeding in any manner in pursuance of the said proceedings by not forfeiting the earnest money deposit of Rs.7,50,000/- deposited by the petitioner with the 3rd respondent.

Counsel for the Petitioner:MR.A.T.M.RANGARAMANUJAM

Counsel for the Respondent : GP FOR PROHIBITION & EXCISE.

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Common Order: (Per BRSR, J.)

Both these writ petitions may be disposed of, since the subject matter in both the writ petitions is one and the same.

The petitioner seeks a writ of Mandamus declaring the action of the 3rd respondent in forfeiting Rs. 15,00,000/- earnest money deposit made by the petitioner on 19-1-1995 with the 3rd respondent in the form of two demand drafts dated 17-1-1995 for Rs. 9,00,000/- and Rs. 6,00,000/- respectively drawn on Vysya Bank, Tirupathi as illegal. The petitioner also prays for issuance of a consequential direction directing the respondents in proceeding further in any manner whatsoever in pursuance of the said letters.

The dispute between the petitioner and the respondents arises out of the contract entered into by and between the parties pursuant to the tender dated 18-1-1995. The relief sought for by the petitioner in both the writ petitions is virtually in the nature of a suit for recovery of money. Such decree cannot be granted by this Court in exercise of its judicial review jurisdiction. No direction as prayed for by the petitioner can be issued in this summary proceedings. If the petitioner wants enforcement of right arising out of any clauses or the covenants of the contract mutually entered and agreed by and between the parties, it has to avail the remedies that may be available to it in law.

For the aforesaid reasons, we find no merit in both these writ petitions and the same shall stand accordingly dismissed. Leave is granted to the petitioner to avail such remedies as may be available to it in law, in which event, the matter

shall be considered on its own merits.

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B.Sudershan Reddy, J.

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C.V. Ramulu, J.

15th December, 2004

grr

Copies to:

1. The Govt. Pleader for Prohibition and Excise, High Courtof A.P., Hyderabad.
2. The Commissioner of Sugar, Govt. of A.P., Hyderabad.
3. The Commissioner of Excise, Govt. of A.P., Hyderabad.
4. The West Godavari CooperativeSugars Ltd., Bhimadole
5. Two C.D. copies